

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 61

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

DELORES C. WRIGHT

AN ACT

**RELATING TO CAMPAIGNS; PROHIBITING CERTAIN CAMPAIGN
CONTRIBUTIONS; PROHIBITING CAMPAIGN MAILINGS WITHIN TEN DAYS
OF THE DATE OF THE ELECTION; AMENDING REPORTING REQUIREMENTS.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 1-19-26 NMSA 1978 (being Laws 1979,
Chapter 360, Section 2, as amended) is amended to read:**

**"1-19-26. DEFINITIONS. --As used in the Campaign
Reporting Act:**

**A. "advertising campaign" means an advertisement
or series of advertisements used for a political purpose and
disseminated to the public either in print, by radio or
television broadcast or by any other electronic means,
including telephonic communications, and may include direct or
bulk mailings of printed materials;**

Underscored material = new
[bracketed material] = delete

Underscored material = new
[bracketed material] = delete

1 B. "anonymous contribution" means a contribution
2 the contributor of which is unknown to the candidate or his
3 agent or the political committee or its agent who accepts the
4 contribution;

5 C. "bank account" means an account in a financial
6 institution located in New Mexico;

7 D. "campaign committee" means two or more persons
8 authorized by a candidate to raise, collect or expend
9 contributions on the candidate's behalf for the purpose of
10 electing him to office;

11 E. "candidate" means an individual who seeks or
12 considers an office in an election covered by the Campaign
13 Reporting Act, including a public official, who either has
14 filed a declaration of candidacy or nominating petition or:

15 (1) for a non-statewide office, has received
16 contributions or made expenditures of one thousand dollars
17 (\$1,000) or more or authorized another person or campaign
18 committee to receive contributions or make expenditures of one
19 thousand dollars (\$1,000) or more for the purpose of seeking
20 election to the office; or

21 (2) for a statewide office, has received
22 contributions or made expenditures of two thousand five
23 hundred dollars (\$2,500) or more or authorized another person
24 or campaign committee to receive contributions or make
25 expenditures of two thousand five hundred dollars (\$2,500) or

Underscored material = new
[bracketed material] = delete

1 more for the purpose of seeking election to the office or for
2 candidacy exploration purposes in the years prior to the year
3 of the election;

4 F. "contribution" means a gift, subscription,
5 loan, advance or deposit of any money or other thing of value,
6 including the estimated value of an in-kind contribution, that
7 is made or received for a political purpose, including payment
8 of a debt incurred in an election campaign, but does not
9 include the value of services provided without compensation or
10 unreimbursed travel or other personal expenses of individuals
11 who volunteer a portion or all of their time on behalf of a
12 candidate or political committee, nor does it include the
13 administrative or solicitation expenses of a political
14 committee that are paid by an organization that sponsors the
15 committee;

16 G. "deliver" or "delivery" means by certified or
17 registered mail, by telecopier, electronic mail or facsimile
18 or by personal service;

19 H. "election" means any primary, general or
20 statewide special election in New Mexico and includes county
21 and judicial retention elections but excludes municipal,
22 school board and special district elections;

23 I. "election year" means an even-numbered year in
24 which an election covered by the Campaign Reporting Act is
25 held;

Underscored material = new
[bracketed material] = delete

1 J. "expenditure" means a payment, transfer or
2 distribution or obligation or promise to pay, transfer or
3 distribute any money or other thing of value for a political
4 purpose, including payment of a debt incurred in an election
5 campaign or pre-primary convention, but does not include the
6 administrative or solicitation expenses of a political
7 committee that are paid by an organization that sponsors the
8 committee;

9 K. "foreign source" means a person who is not:

10 (1) a resident of the United States; or

11 (2) a corporation or business in the United

12 States;

13 ~~[K.]~~ L. "person" means an individual or entity;

14 ~~[L.]~~ M. "political committee" means two or more
15 persons, other than members of a candidate's immediate family
16 or campaign committee or a husband and wife who make a
17 contribution out of a joint account, who are selected,
18 appointed, chosen, associated, organized or operated primarily
19 for a political purpose and includes political action
20 committees or similar organizations composed of employees or
21 members of any corporation, labor organization, trade or
22 professional association or any other similar group that
23 raises, collects, expends or contributes money or any other
24 thing of value for a political purpose; provided that a
25 political committee includes a single individual who by his

Underscored material = new
[bracketed material] = delete

1 actions represents that he is a political committee and a
2 person or an organization of two or more persons that within
3 one calendar year expends funds in excess of two thousand
4 dollars (\$2,000) to conduct an advertising campaign for a
5 political purpose;

6 [M-] N. "political purpose" means influencing or
7 attempting to influence an election or pre-primary convention,
8 including a constitutional amendment or other question
9 submitted to the voters;

10 [N-] O. "prescribed form" means a form prepared
11 and prescribed by the secretary of state;

12 [O-] P. "proper filing officer" means either the
13 secretary of state or the county clerk as provided in Section
14 1-19-27 NMSA 1978;

15 [P-] Q. "public official" means a person elected
16 to an office in an election covered by the Campaign Reporting
17 Act or a person appointed to an office that is subject to an
18 election covered by that act;

19 [Q-] R. "reporting individual" means every public
20 official, candidate or treasurer of a campaign committee and
21 every treasurer of a political committee; and

22 [R-] S. "statement of exception" or "statement"
23 means the prescribed form subscribed and sworn to by a
24 candidate to indicate that the candidate does not intend to
25 raise or expend the minimum amount required for the filing of

Underscored material = new
[bracketed material] = delete

1 a report of expenditures and contributions as provided in
2 Section 1-19-33 NMSA 1978. "

3 Section 2. Section 1-19-29 NMSA 1978 (being Laws 1993,
4 Chapter 46, Section 5, as amended by Laws 1997, Chapter 12,
5 Section 1 and also by Laws 1997, Chapter 112, Section 3) is
6 amended to read:

7 "1-19-29. TIME AND PLACE OF FILING REPORTS. --

8 A. Annually, all reporting individuals shall file
9 with the proper filing officer by 5:00 p.m. on the second
10 Monday in May a report of all expenditures made and
11 contributions received on or before the first Monday in May
12 and not previously reported. The report shall be filed
13 annually until the reporting individual's bank account has
14 been closed and the other provisions specified in Subsection E
15 of this section have been satisfied.

16 B. In an election year, in addition to the May
17 report provided for in Subsection A of this section, all
18 reporting individuals, except for persons who file a statement
19 of exception pursuant to Section 1-19-33 NMSA 1978 and except
20 for public officials who are not candidates in an election
21 that year, shall file reports of all expenditures made and
22 contributions received according to the following schedule:

23 (1) by 5:00 p.m. on the second Monday in
24 October, a report of all expenditures made and contributions
25 received on or before the first Monday in October and not

. 120432. 1

Underscored material = new
[bracketed material] = delete

1 previously reported;

2 (2) by 5:00 p.m. on the Thursday before a
3 primary, general or statewide special election, a report of
4 all expenditures made [~~and contributions received~~] by 5:00
5 p.m. on the Tuesday before the election [~~Any contribution or~~
6 ~~pledge to contribute that is received after 5:00 p.m. on the~~
7 ~~Tuesday before the election and that is for five hundred~~
8 ~~dollars (\$500) or more in a legislative or nonstatewide~~
9 ~~judicial election, or two thousand five hundred dollars~~
10 ~~(\$2,500) or more in a statewide election shall be reported to~~
11 ~~the proper filing officer either in a supplemental report on a~~
12 ~~prescribed form within twenty-four hours of receipt or in the~~
13 ~~report to be filed by 5:00 p.m. on the Thursday before a~~
14 ~~primary, general or statewide special election, except that~~
15 ~~any such contribution or pledge to contribute that is received~~
16 ~~after 5:00 p.m. on the Friday before the election may be~~
17 ~~reported by 12:00 noon on the Monday before the election] and
18 all contributions received by 5:00 p.m. on the tenth day
19 before the election; and~~

20 (3) by 5:00 p.m. on the thirtieth day after a
21 primary, general or statewide special election, a report of
22 all expenditures made and contributions received on or before
23 the twenty-fifth day after the election and not previously
24 reported.

25 C. Notwithstanding the other provisions of this

Underscored material = new
[bracketed material] = delete

1 section, the report due on the thirtieth day after an election
2 need be the only report filed after the annual May report if
3 the candidate is not opposed in the election and if the report
4 includes all expenditures made and contributions received for
5 that election and not previously reported.

6 D. A report of expenditures and contributions
7 filed after a deadline set forth in this section shall not be
8 deemed to have been timely filed.

9 E. Each reporting individual shall file a report
10 of expenditures and contributions annually pursuant to the
11 filing schedule set forth in this section, regardless of
12 whether any expenditures were made or contributions were
13 received during the reporting period. Reports shall be
14 required until the reporting individual delivers a report to
15 the proper filing officer stating that:

- 16 (1) there are no outstanding campaign debts;
17 (2) all money has been expended in accordance
18 with the provisions of Section 1-19-29.1 NMSA 1978; and
19 (3) the bank account has been closed.

20 F. Each treasurer of a political committee shall
21 file a report of expenditures and contributions annually
22 pursuant to the filing schedule set forth in this section
23 until the treasurer files a report that affirms that the
24 committee has dissolved or no longer exists and that its bank
25 account has been closed.

Underscored material = new
[bracketed material] = delete

1 G. A reporting individual who is a candidate
2 within the meaning of the Campaign Reporting Act because of
3 the amount of contributions he receives or expenditures he
4 makes and who does not ultimately file a declaration of
5 candidacy or a nominating petition with the proper filing
6 officer shall nevertheless file a report, not later than the
7 second Monday in May for a primary election or the second
8 Monday in October for a general election, of all contributions
9 received and expenditures made on or before the first Monday
10 in May for a primary election or the first Monday in October
11 for a general election, and not previously reported. "

12 Section 3. A new section of the Campaign Reporting Act
13 is enacted to read:

14 "[NEW MATERIAL] FOREIGN SOURCE CAMPAIGN CONTRIBUTIONS--
15 PROHIBITIONS. --No foreign source may make contributions to a
16 candidate or his campaign committee with respect to an
17 election for an office covered by the Campaign Reporting Act
18 or to a political party to be distributed to a candidate or
19 his campaign committee with respect to an election for an
20 office covered by the Campaign Reporting Act. "

21 Section 4. A new section of the Campaign Reporting Act
22 is enacted to read:

23 "[NEW MATERIAL] CAMPAIGN CONTRIBUTIONS-- PROHIBITED
24 DURING TEN-DAY PERIOD PRIOR TO ELECTION. --No candidate or
25 campaign committee shall accept any contribution during the

Underscored material = new
[bracketed material] = delete

1 ten days immediately preceding a primary, general or statewide
2 special election. "

3 Section 5. A new section of the Campaign Reporting Act
4 is enacted to read:

5 "[NEW MATERIAL] CAMPAIGN LITERATURE--PROHIBITIONS ON
6 MAILINGS.--No candidate or campaign committee shall deliver or
7 mail any campaign literature, circular, letter or similar
8 written material, either by direct or bulk mailing, during the
9 ten-day period immediately preceding a primary, general or
10 special election. "

11 Section 6. Section 1-19-31 NMSA 1978 (being Laws 1979,
12 Chapter 360, Section 7, as amended) is amended to read:

13 "1-19-31. CONTENTS OF REPORT.--

14 A. Each required report of expenditures and
15 contributions shall be typed or printed legibly, or on a
16 computer disc or format approved by the secretary of state,
17 and shall include:

18 (1) the name and address of the person or
19 entity to whom an expenditure was made or from whom a
20 contribution was received, except as provided for anonymous
21 contributions or contributions received from special events as
22 provided in Section 1-19-34 NMSA 1978; provided that for
23 contributors, the name of the entity or the first and last
24 names of any individual shall be the full name of the entity
25 or individual, and initials only shall not constitute a full

Underscored material = new
[bracketed material] = delete

1 name unless that is the complete legal name;

2 (2) the occupation or type of business of any
3 person or entity making contributions of [~~two hundred fifty~~
4 ~~dollars (\$250)~~] one hundred dollars (\$100) or more in the
5 aggregate per election;

6 (3) the amount of the expenditure or
7 contribution or value thereof;

8 (4) the purpose of the expenditure; and

9 (5) the date the expenditure was made or the
10 contribution was received.

11 B. The report of expenditures and contributions
12 shall be subscribed and sworn to by the candidate or the
13 treasurer of the political committee. If the report of
14 expenditures and contributions is filed in an electronically
15 readable format, the report shall be subscribed and sworn to
16 in an independent affidavit signed by the candidate or the
17 treasurer of the political committee and delivered to the
18 secretary of state within forty-eight hours after the report
19 is electronically filed.

20 C. Each report shall contain an opening and
21 closing cash balance for the bank account maintained by the
22 reporting individual during the reporting period and the name
23 of the financial institution.

24 D. Each report shall specify the amount of each
25 unpaid debt and the identity of the person to whom the debt is

Underscored material = new
[bracketed material] = delete

1 owed. "

2 Section 7. Section 1-19-35 NMSA 1978 (being Laws 1979,
3 Chapter 360, Section 11, as amended by Laws 1997, Chapter 12,
4 Section 2 and also by Laws 1997, Chapter 112, Section 5) is
5 amended to read:

6 "1-19-35. REPORTS AND STATEMENTS--LATE FILING PENALTY--
7 FAILURE TO FILE. --

8 A. Except for the report required to be filed and
9 delivered the Thursday prior to the election [~~and any~~
10 ~~supplemental report, as required in Paragraph (2) of~~
11 ~~Subsection B of Section 1-19-29 NMSA 1978, that is due prior~~
12 ~~to the election~~], and subject to the provisions of Section
13 1-19-34.4 NMSA 1978, if a statement of exception or a report
14 of expenditures and contributions contains false or incomplete
15 information or is filed after any deadline imposed by the
16 Campaign Reporting Act, the responsible reporting individual
17 or political committee, in addition to any other penalties or
18 remedies prescribed by the Election Code, shall be liable for
19 and shall pay to the secretary of state fifty dollars (\$50.00)
20 per day for each regular working day after the time required
21 by the Campaign Reporting Act for the filing of statements of
22 exception or reports of expenditures and contributions until
23 the complete or true statement or report is filed, up to a
24 maximum of five thousand dollars (\$5,000).

25 B. If any reporting individual files a false,

Underscored material = new
[bracketed material] = delete

1 intentionally incomplete or late report of expenditures and
2 contributions due on the Thursday prior to the election, the
3 reporting individual or political committee shall be liable
4 and pay to the secretary of state five hundred dollars (\$500)
5 for the first working day and fifty dollars (\$50.00) for each
6 subsequent working day after the time required for the filing
7 of the report until the true and complete report is filed, up
8 to a maximum of five thousand dollars (\$5,000).

9 C. If a reporting individual fails to file [~~or~~
10 ~~files a late supplemental report of expenditures and~~
11 ~~contributions as required in Paragraph (2) of Subsection B of~~
12 ~~Section 1-19-29 NMSA 1978]~~ a report pursuant to the Campaign
13 Reporting Act, the reporting individual or political committee
14 shall be liable for and pay to the secretary of state a
15 penalty equal to the amount of each contribution received or
16 pledged [~~after the Tuesday before the election that was not~~
17 ~~timely filed]~~ during the ten-day period immediately preceding
18 an election.

19 D. All sums collected for the penalty shall be
20 deposited in the state general fund. A report or statement of
21 exception shall be deemed timely filed only if it is received
22 by the proper filing officer by the date and time prescribed
23 by law.

24 E. Any candidate who fails or refuses to file a
25 report of expenditures and contributions or statement of

Underscored material = new
[bracketed material] = del ete

1 exception or to pay a penalty imposed by the secretary of
2 state as required by the Campaign Reporting Act shall not, in
3 addition to any other penalties provided by law:

4 (1) have his name printed upon the ballot if
5 the violation occurs before and through the final date for the
6 withdrawal of candidates; or

7 (2) be issued a certificate of nomination or
8 election, if the violation occurs after the final date for
9 withdrawal of candidates or after the election, until the
10 candidate satisfies all reporting requirements of the Campaign
11 Reporting Act and pays all penalties owed.

12 F. Any candidate who loses an election and who
13 failed or refused to file a report of expenditures and
14 contributions or a statement of exception or to pay a penalty
15 imposed by the secretary of state as required by the Campaign
16 Reporting Act shall not be, in addition to any other penalties
17 provided by law, permitted to file a declaration of candidacy
18 or nominating petition for any future election until the
19 candidate satisfies all reporting requirements of that act and
20 pays all penalties owed. "